

IN RE: PETITION FOR SPECIAL HEARING
 W/S York Road, 345' S of the
 c/l of Thelma Road
 (2036 York Road)
 8th Election District
 4th Councilmanic District
 Penn Advertising of Balto., Inc.
 Petitioners

BEFORE THE
 ZONING COMMISSIONER
 OF BALTIMORE COUNTY
 Case No. 90-222-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special hearing to approve an amendment to the special exception granted in Case No. 86-520-XA, extended in Case No. 89-88-SPH, to allow the relocation of signs along the southern boundary of the property adjacent to an existing building, as more particularly described in Petitioner's Exhibits 1 and 2.

The Petitioners, by Joseph A. DiPaola of J.R. Brothers, Inc., Contract Lessee of the subject property, appeared, testified and was represented by T. Rogers Harrison, Esquire. A appearing and testifying on behalf of the Petition was Emanuel DiPaola, owner of the Turf Inn restaurant. There were no Protestants.

Testimony indicated that the subject property, known as 2036 York Road, is zoned B.R. and is improved with a restaurant known as the Turf Inn. Said property was the subject of previous Case No. 86-520-XA in which a special exception was granted for the relocation of two existing illuminated outdoor advertising signs and related variances, and Case No. 89-88-SPH in which Petitioners were granted an extension of time to utilize the special exception and variances granted in Case No. 86-520-XA. Testimony and evidence presented in Case No. 89-88-SPH indicated that Petitioners were unable to relocate the existing outdoor advertising signs due to financial hardships and ongoing improvements planned for the Turf Inn.

Petitioners are now ready to proceed with the relocation of the two signs, however, they are desirous of relocating the signs from their originally approved site adjacent to Highview Avenue. Testimony indicated Highview Avenue was a paper street at that time but is now being planned for development in the near future. In the opinion of the Petitioners, the site proposed for the relocation of the signs, as set forth in Petitioner's Exhibit 2, will be more aesthetically pleasing and will ultimately provide additional parking for the Turf Inn.

After due consideration of the testimony and evidence presented, in the opinion of the Zoning Commissioner, the relief requested in the Petition for Special Hearing should be granted. It is clear that the E.C.Z.R. permits the use proposed in a B.R. zone by special exception. It is equally clear that the proposed use would not be detrimental to the primary uses in the vicinity. Therefore, it must be determined if the conditions as delineated in Section 502.1 are satisfied.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1 of the B.C.Z.R. The Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not adversely affect the public interest. The facts and circumstances do not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond that inherently associated with such a special exception use, irrespective of its location within the zone.

Schultz v. Pritts, 432 A.2d 1319 (1981).
 The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in

roads, streets, or alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way be inconsistent with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition heard, and for the reasons given above, the relief requested in the special hearing should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 14th day of December, 1989, that the Petition for Special Hearing to approve an amendment to the special exception granted in Case No. 86-520-XA, extended in Case No. 89-88-SPH, to allow the relocation of signs along the southern boundary of the property adjacent to the existing Turf Inn restaurant, in accordance with Petitioner's Exhibits 1 and 2, be and is hereby GRANTED, subject, however, to the following restriction:

- 1) The Petitioners may apply for their sign permits and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

J. Robert Haines
 ROBERT HAINES
 Zoning Commissioner
 for Baltimore County

JRH:bjs

ORDER RECEIVED FOR FILING
 Date 12/14/89
 By *[Signature]*

Baltimore County
 Zoning Commissioner
 Office of Planning & Zoning
 Towson, Maryland 21284
 (301) 887-3383

December 14, 1989



T. Rogers Harrison, Esquire
 105 W. Chesapeake Avenue, Suite 300
 Towson, Maryland 21284

RE: PETITION FOR SPECIAL HEARING
 W/S York Road, 345' S of the c/l of Thelma Road
 (2036 York Road)
 8th Election District - 4th Councilmanic District
 Penn Advertising of Baltimore, Inc. - Petitioners
 Case No. 90-222-SPH

Dear Mr. Harrison:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The petition for Special Hearing has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

J. Robert Haines
 ROBERT HAINES
 Zoning Commissioner
 for Baltimore County

JRH:bjs

cc: People's Counsel

File

ORDER RECEIVED FOR FILING
 Date 12/14/89
 By *[Signature]*

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-222-SPH

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve an amendment to the special exception granted in case 86-520-XA and extended in case 89-88-SPH that would allow the relocation of the signs to a place next to the Turf Inn (along the southern boundary of the property).

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I, We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Lessee: J.R. Bros., Inc. t/a Turf Inn (Type or Print Name) <i>Joseph A. DiPaola</i> Signature 2036 York Road Address Towson, Maryland 21093 City and State	Legal Owner(s): Penn. Advertising of Baltimore, Inc. (Type or Print Name) <i>J. Rogus H</i> Signature 2036 York Road Address Towson, Maryland 21093 City and State
Attorney for Petitioner: T. Rogers Harrison (Type or Print Name) <i>T. Rogers Harrison</i> Signature 105 W. Chesapeake Ave., Suite 300 Address Towson, Maryland 21204 City and State	Attorney for Petitioner: 2101 Myrtle Street Address Scranton, Pennsylvania 18510 City and State Name, address and phone number of legal owner, contract purchaser or representative to be contacted T. Rogers Harrison Name Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 26 day of Sept 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 12 day of Dec 1989, at 9:30 o'clock A.M.

J. Robert Haines
 Zoning Commissioner of Baltimore County

PETITION FOR SPECIAL HEARING

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Attorney for Petitioner: T. Rogers Harrison (Type or Print Name) <i>T. Rogers Harrison</i> Signature 105 W. Chesapeake Ave., Suite 300 Address Towson, Maryland 21204 City and State	Attorney for Petitioner: 2101 Myrtle Street Address Scranton, Pennsylvania 18510 City and State Name, address and phone number of legal owner, contract purchaser or representative to be contacted T. Rogers Harrison Name Address Phone No.

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J. Robert Haines
 Zoning Commissioner of Baltimore County

BALTIMORE COUNTY, MARYLAND
 OFFICE OF FINANCE - REVENUE DIVISION
 MISCELLANEOUS CASH RECEIPT

DATE: 12/14/89 ACCOUNT: 01-615

AMOUNT: \$ 175.00

RECEIVED FROM: M.C. Harrison, Inc. (Turf Inn) 2036 York Road (Area # 71)

FOR: Special Hearing

B 8C14****17500:0 12:1

Tracking System

Baltimore County
 Zoning Commissioner
 Office of Planning & Zoning

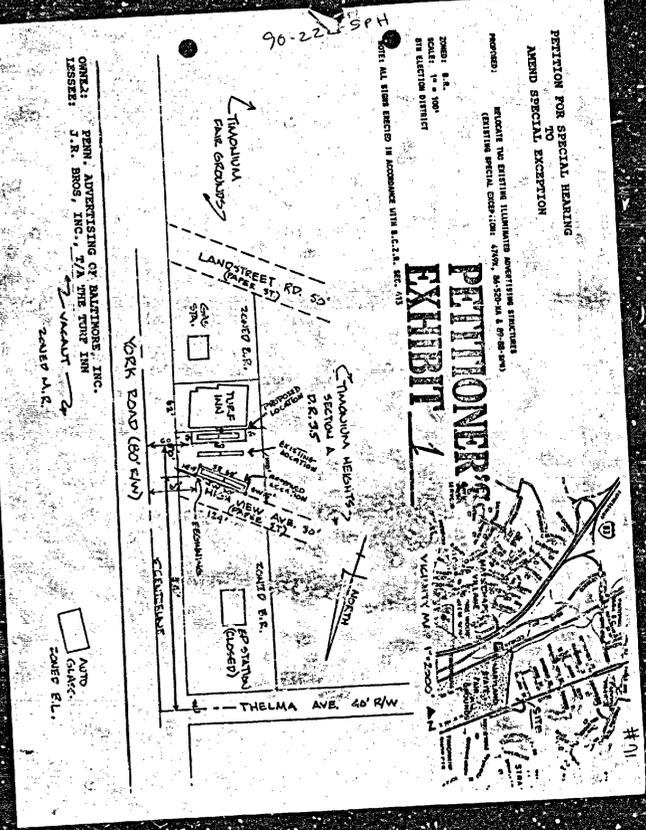
Date: 12/14/89 Receipt FEE: 04
 Day Month Year Number TYPE Identification Number: 1808810744510401-C1540821093

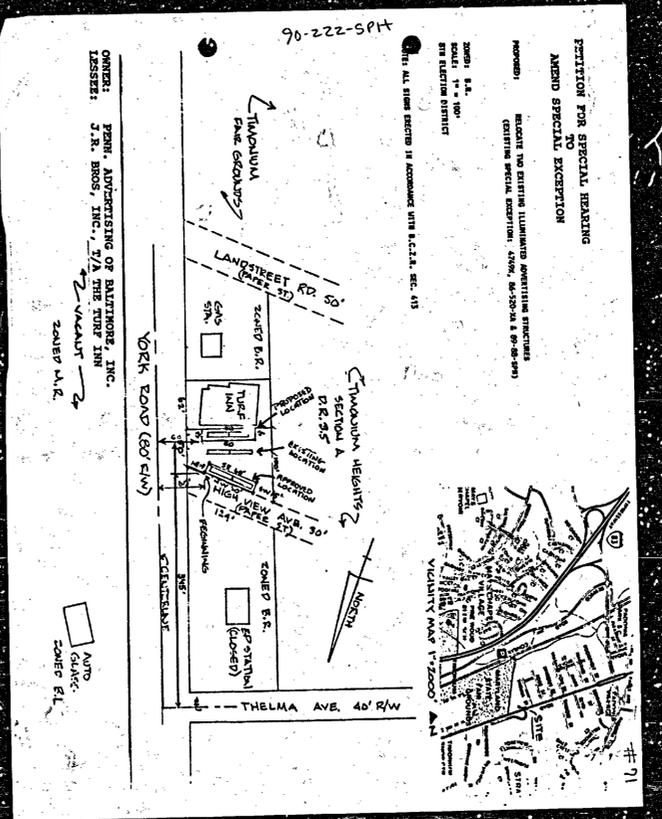
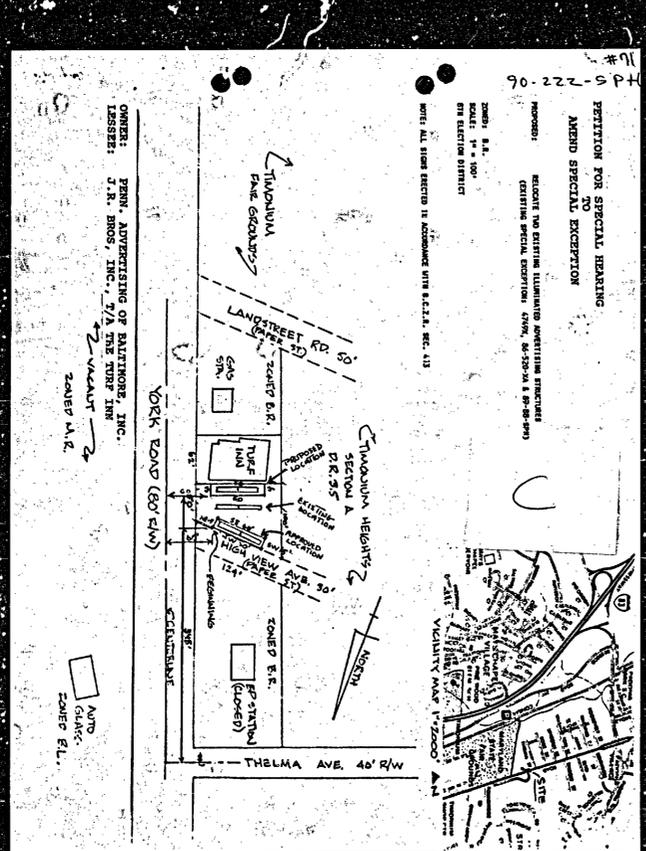
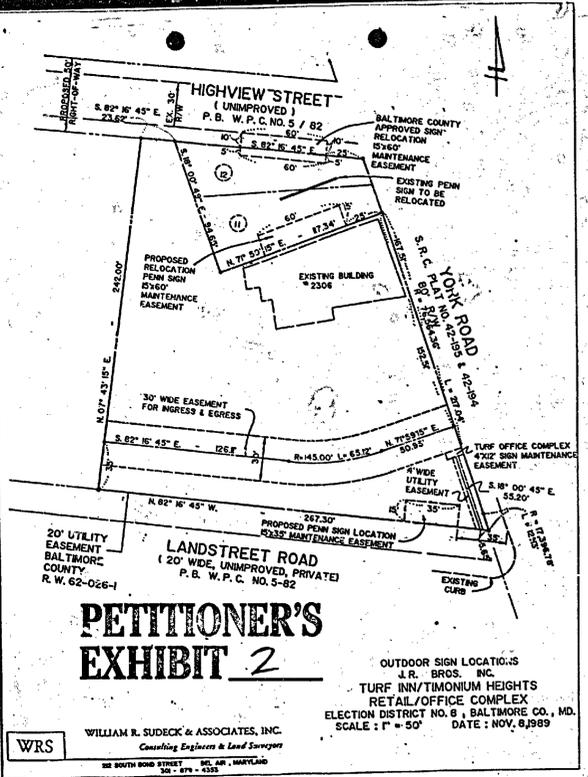
Petitioner: Penn. Advertising of Baltimore, Inc. (Last) (First) (Middle Initial)

Property Address: 2036 York Road (Number) (Street)

PROPERTY DESCRIPTION

Beginning at a point on the west side of York Road (80 feet wide), 345 feet south of the center line of Thelma Avenue (40 feet wide), and 60 feet from the center line of York Road and thence running the following courses and distances: (1) west a distance of 60 feet; thence (2) south and at a right angle a distance of 15 feet to a point; thence (3) east and at a right angle a distance of 60 feet to a point; thence (4) north and at a right angle a distance of 15 feet to the beginning point.





BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

November 27, 1989

T. Rogers Harrison, Esquire
 105 W. Chesapeake Ave.
 Towson, MD 21204

RE: Item No. 71, Case No. 90-222-SPH
 Petitioner: Penn Advertising of Baltimore
 Petition for Special Hearing

Dear Mr. Harrison:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINDERSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,
 James E. Dyer
 Chairman
 Zoning Plans Advisory Committee

JED:jw
 Enclosures
 cc: J.R. Bros., Inc.
 Penn Advertising of Baltimore

Baltimore County
 Zoning Commission
 Office of Planning & Zoning
 Towson, Maryland 21204
 (301) 887-3353

J. Robert Haines
 Zoning Commissioner

RECEIVED
 AUG 31 1989
 ZONING OFFICE

August 25, 1989

Mr. J. Robert Haines
 Zoning Commissioner
 County Office Building
 Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 285, 65, 66, 68, 69, 70, 71, and 72.

Very truly yours,
 Michael S. Planigan
 Traffic Engineer Associate II

MSP/lw

Your petition has been received and accepted for filing this 26th day of September, 1989.

J. Robert Haines
 ZONING COMMISSIONER

Received By:
 James E. Dyer
 Chairman
 Zoning Plans Advisory Committee

Petitioner: Penn Advertising of Baltimore, Inc.
 Petitioner's Attorney: T. Rogers Harrison

Baltimore County
 Department of Public Works
 Bureau of Traffic Engineering
 Courts Building, Suite 405
 Towson, Maryland 21204
 (301) 887-3554

RECEIVED
 AUG 31 1989
 ZONING OFFICE

August 24, 1989

J. Robert Haines
 Zoning Commissioner
 Office of Planning and Zoning
 Baltimore County Office Building
 Towson, MD 21204

RE: Property Owner: PENN. ADVERTISING OF BALTIMORE
 Location: W/S OF YORK ROAD
 Item No.: 71 Zoning Agenda: AUGUST 29, 1989

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: Noted and Approved
 Planning Group Special Inspection Division Fire Prevention Bureau

JK/KEK

Baltimore County
 Department of Public Works
 Bureau of Traffic Engineering
 Courts Building, Suite 405
 Towson, Maryland 21204
 (301) 887-3554

RECEIVED
 AUG 31 1989
 ZONING OFFICE

August 24, 1989

J. Robert Haines
 Zoning Commissioner
 Office of Planning and Zoning
 Baltimore County Office Building
 Towson, MD 21204

RE: Property Owner: PENN. ADVERTISING OF BALTIMORE
 Location: W/S OF YORK ROAD
 Item No.: 71 Zoning Agenda: AUGUST 29, 1989

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: Noted and Approved
 Planning Group Special Inspection Division Fire Prevention Bureau

JK/KEK

BALTIMORE COUNTY, MARYLAND
 INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines DATE: December 4, 1989
 Zoning Commissioner

FROM: Pat Keller, Deputy Director
 Office of Planning and Zoning

SUBJECT: Penn Advertising of Baltimore, Inc., Item 71
 Zoning Petition No. 90-222-SPH

The Petitioner requests a special hearing to amend Case Nos. 86-520XA and 89-88-SPH.

In reference to this request, staff offers no comment.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm

#11
90-222-5PH

MUDD, HARRISON & BURCH
ATTORNEYS AT LAW
200 JEFFERSON ST. BUILDING
106 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21284
900 586 1300
TELEPHONE 900 586 1300

July 27, 1989

Hard-Delivered

J. Robert Haines, Esquire
Zoning Commissioner for Baltimore County
Office of Planning & Zoning
Towson, Maryland 21204

Re: Petition for Special Hearing
to Amend Special Except. granted
in case 86-520-XA and extended
in case 89-88-SPH

Dear Mr. Haines:

I represent the Turf Inn. I am writing to you to request a waiver of the requirement that the site plan for the above petition be prepared by a registered surveyor or engineer. Mitch Kellman of the Zoning Office suggested I make the request.

I believe that my request should be granted for the following reasons:

In 1986, the Turf Inn, in case 86-520-XA, filed a petition for special exception and a petition for variance. The site plan submitted along with those petitions was not prepared by a registered surveyor or engineer. I have attached a copy of the site plan (Enclosure A). The site plan was accepted by the Zoning Office, and Commissioner Arnold Jablon granted the petitions.

In 1988, the Turf Inn, in case 89-88-SPH, filed a petition for special hearing to extend the special exception granted in case 86-520-XA. The site plan submitted with that petition was not prepared by a registered surveyor or engineer. I have attached a copy of the 1988 site plan (Enclosure B). If you notice, the 1988 site plan is merely the 1986 site plan with a different caption; it is, more or less, an updated plan. The 1988 site plan was accepted by the Zoning Office, and you granted the extension.

#11

J. Robert Haines, Esquire
Zoning Commissioner for Baltimore County
July 27, 1989
Page 2

The Turf Inn would now like to amend the special exception to allow a relocation of the outdoor advertising signs to another designated place on the property. I had a review meeting with Mitch Kellman this morning, and he indicated that he would not accept the site plan because it had not been prepared by a registered surveyor or engineer. I have enclosed a copy of the new site plan (Enclosure C).

Please note that the new site plan is merely an updated version of the 1988 plan, which, as I mentioned, was an updated version of the 1986 plan. The new site plan, like the 1986 and 1988 site plans, was not prepared by a registered surveyor or engineer, but because the Zoning Office has accepted what is essentially the same site plan twice before, I would like you to consider accepting the new site plan and waiving the requirement that it be prepared by a registered surveyor or engineer.

Thank you very much. If you have any questions, please contact me.

Very truly yours,
Andrew Anguitto
Andrew Anguitto

Attachments
Enclosures

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland
90-222-5PH

District: Special Hearing
Posted for: Special Hearing Date of Posting: November 21, 1989
Petitioner: Penn Advertising of Baltimore, Inc.
Location of property: W/S of York Road, 345' S of c/l of Thelma Road
2036 York Road
Location of Sign: West side of York Road, in front of proposed sign location
Remarks:
Posted by: S. Zate Orlan Date of return: November 24, 1989
Number of Signs: 1

123.87

CERTIFICATE OF PUBLICATION

TOWSON, MD., November 28, 1989

THIS IS TO CERTIFY, that the annexed advertisement was published in TOWSON TIMES, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Nov 23, 1989

TOWSON TIMES,
S. Zate Orlan
Publisher

NOTICE OF HEARING

CERTIFICATE OF PUBLICATION

TOWSON, MD., November 28, 1989

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on Nov 23, 1989

THE JEFFERSONIAN,
S. Zate Orlan
Publisher

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3333

J. Robert Haines
Zoning Commissioner

DATE: 12/5/89

J.R. Bros., Inc., t/a Turf Inn
2036 York Road
Timonium, Maryland 21083

ATTN: MARY DALLA

Re: Petition for Special Hearing
CASE NUMBER: 89-222-5PH
W/S of York Road, 345' S of c/l of Thelma Road
2036 York Road
8th Election District - 4th Councilmanic
Legal Owner(s): Penn Advertising of Baltimore, Inc.
Lessors: J.R. Bros., Inc., t/a Turf Inn
HEARING: TUESDAY, DECEMBER 12, 1989 at 9:30 a.m.

Gentlemen:
Please be advised that \$ 148.87 is due for advertising and posting.

AGREEMENT

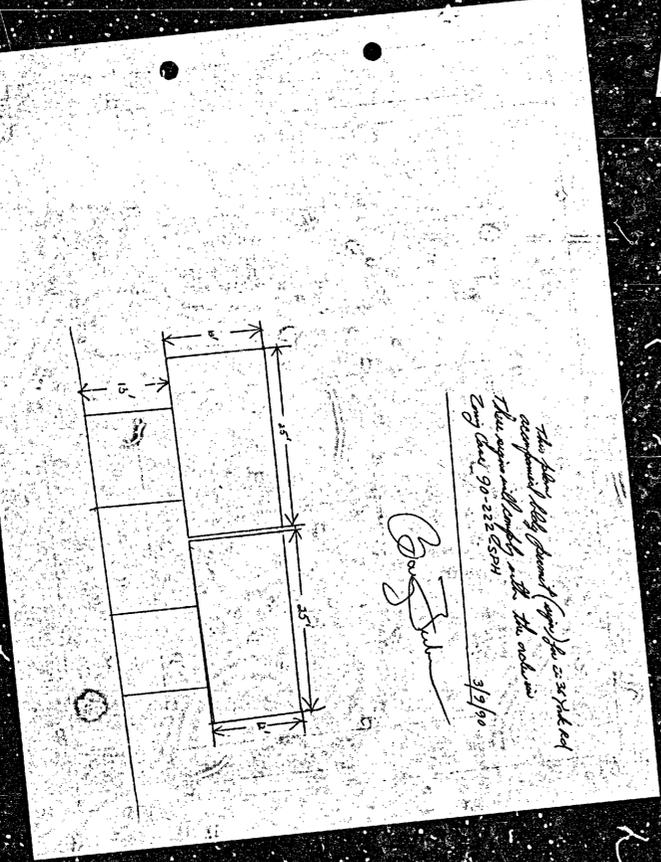
Penn Advertising of Baltimore, Inc. ("Penn") and J. R. Bros., Inc. ("J. R. Bros.") agree as follows:

1. Simultaneously herewith, Penn will convey a certain parcel of land across Lot 12, Section A, Plat of Timonium Heights (Plat Book W.P.C. No. 5, folio 82), said parcel containing 0.332 acres, more or less, pursuant to the deed attached as Exhibit A, to J. R. Bros., Inc. by October 5, 1989, for the consideration of \$5.00. This deed is otherwise known as the Highway widening deed.

2. Penn will convey Lots 11 and 12 of Timonium Heights, Baltimore County, Maryland (Plat Book W.P.C. No. 5 folio 82) to J. R. Bros. for the conditional consideration of one dollar (\$1.00). J. R. Bros. will grant Penn a perpetual easement on Lot 11 and/or 12 to be used for the two side-by-side outdoor advertising signs that now exist. The location of the easement depends on the final location of these two signs, and the easement will be recorded at J. R. Bros. expense.

3. J. R. Bros. will grant Penn a second perpetual easement to be recorded to be used for one (single or double faced) 12-by-25 foot outdoor advertising sign on Lot 1 of Timonium Heights, Baltimore County, Maryland (Plat Book W.P.C. No. 5 folio 82). J. R. Bros. shall pay for title insurance which Penn shall obtain for Penn's easement. J. R. Bros. will cooperate with Penn in obtaining the permits. If the required permits cannot be obtained after fair efforts by Penn, the grant of this easement shall not be necessary.

4. J. R. Bros. shall cooperate with Penn in securing the necessary governmental permits and approvals for the construction of the outdoor advertising sign on Lot 1. If Penn fails to obtain all the necessary approvals for the construction of the outdoor advertising sign on Lot 1 within two-hundred and ten (210) days from the preparation of the plat depicting the location of Penn's signs and the easements granted to Penn, then J. R. Bros., instead of granting Penn an easement on Lot 1, will pay Penn the amount of twenty-five thousand dollars (\$25,000) as additional consideration owed to Penn, its successors and assigns. J. R. Bros. should Penn, its successors and assigns, be forced at some time in the future to remove the existing signs on Lot 11 and/or 12 of the proposed sign on Lot 1 as a result of governmental action that outlaws or prohibits outdoor advertising signs.



Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3333

J. Robert Haines
Zoning Commissioner

November 15, 1989

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 108 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Special Hearing
CASE NUMBER: 89-222-5PH
W/S of York Road, 345' S of c/l of Thelma Road
2036 York Road
8th Election District - 4th Councilmanic
Legal Owner(s): Penn Advertising of Baltimore, Inc.
Lessors: J.R. Bros., Inc., t/a Turf Inn
HEARING: TUESDAY, DECEMBER 12, 1989 at 9:30 a.m.

Special Hearings To approve an amendment to the Special Exception granted in Case #86-520-XA and extended in Case #89-88-SPH that would allow the relocation of the signs to a place next to the Turf Inn (along the southern boundary of the property).

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

NOTE:
If "PHASE II" of the "SNM EMERGENCY PLAN" is in effect in Baltimore County on the above hearing date, the Hearing will be postponed. In the event of snow, telephone 887-3331 to confirm hearing date.)

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

JRH:ag
cc: Penn Advertising of Baltimore, Inc.
J. R. Bros., Inc., t/a Turf Inn
T. Rogers Harrison, Esq.
File

receipt

Account: R-001-6150
Number: 90-222

Date: 12/12/89

QTY	PRICE
PUBLIC HEARING FEES	\$148.87
OBO - POSTING SIGNS / ADVERTISING 1 X	\$148.87
LAST NAME OF OWNER: PENN. ADVERTISING	TOTAL \$148.87

Check Validation: _____
Please make checks payable to _____

PIPER:MKR:BUK7:BHLIU TEL: 1-301-537-7450 FAX: 301-537-7450

ADDENDUM

In the event that there are any easements or other matters of title which interfere with the placement of Penn's sign at the location shown on Exhibit B, J.R. Bros. will cooperate with Penn in the relocation of such easements and the necessary modification of such other matters of title as may be required, provided that Penn shall bear the cost and expense of such relocation or modification and that such relocation or modification does not have a material and adverse effect on the J.R. Bros. Additionally, the Partnership will cooperate in the relocation of its utility easement if necessary to permit the location of Penn's sign in accordance with Exhibit B, provided that all costs and expenses associated therewith are paid by Penn and that such relocation does not have a material and adverse effect on the Partnership. If any easement or other matter of title interferes with Penn's location of its sign as shown on Exhibit B, Penn may elect not to incur the expense of relocation or modification in which case J.R. Bros. shall pay Penn \$25,000.00 for Lots 11 and 12.

E.A.O.
MS